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23
24 **UNITED STATES DISTRICT COURT**
25 **DISTRICT OF NEVADA**
26

27 WILLIAM J. BERRY, JR.; CYNTHIA
28 FALLS; and SHANE KAUFMANN,
Plaintiffs,
v.

DESERT PALACE, INC., d/b/a
CAESARS PALACE; DOES I through X,
and ROE BUSINESS ENTITIES I through
X, inclusive,
Defendants.

Case No. 2:17-cv-00019-GMN-PAL

**STIPULATION AND ORDER TO STAY
LITIGATION AND EXTEND DISCOVERY
DEADLINES BY THIRTY (30) DAYS**

(Second Request)

IT IS HEREBY STIPULATED AND AGREED by and between Plaintiffs WILLIAM J. BERRY, JR., CYNTHIA FALLS, and SHANE KAUFMANN and Defendant DESERT PALACE, INC., d/b/a CAESARS PALACE, by and through their respective counsel of record, that (i) the current proceedings be stayed for thirty (30) days pending the outcome of a mediation between the parties, and (ii) the discovery deadlines set forth by the Amended Discovery Plan

1 and Scheduling Order [ECF No. 55] will be extended by thirty (30) days. This is the parties'
2 second stipulation to stay the current proceedings and to extend discovery deadlines. The parties
3 state as follows:

4 1. This matter was commenced on January 3, 2017 [ECF No. 1].

5 2. On June 2, 2017, the Court granted the parties' proposed discovery plan and
6 scheduling order [ECF No. 25], which initially set December 29, 2017 as the discovery cut-off
7 date in this matter.

8 3. On June 26, 2017, the parties took part in an Early Neutral Evaluation Conference
9 with Magistrate Judge George Foley, Jr. [see ECF No. 27]. The case continued on the normal
10 litigation track because no settlement was reached.

11 4. On October 26, 2017, the parties filed a Stipulation and Order to Stay Litigation
12 Pending the Outcome of Mediation [ECF No. 41], which adjourned the discovery deadlines set
13 forth in the initial Discovery Plan & Scheduling Order [ECF No. 25] until after the mediation
14 was concluded. The Court entered an order staying litigation pending the outcome of mediation
15 [see ECF No. 45].

16 5. On December 13, 2017, the parties held a mediation session at JAMS before the
17 Honorable Lawrence R. Leavitt (Ret.). The mediation was directed to all matters raised in this
18 litigation. Although the parties were hopeful that the mediation would result in the successful
19 resolution of this matter without further involvement of the Court, the parties failed to reach a
20 settlement and the mediation was terminated.

21 6. On January 4, 2018, the Court entered an amended discovery plan and scheduling
22 order [ECF No. 55] and set July 25, 2018 as the revised discovery cut-off date in this matter.

23 7. In accordance with Local Rule 26-4, the parties represent that they have engaged
24 in extensive written discovery and document productions to each other. To date, plaintiff has
25 served and defendant has responded to plaintiffs' 1st through 8th sets of requests for production
26 of documents. In addition, defendant has served and all three plaintiffs have responded to
27 defendant's first sets of interrogatories and requests for production of documents. Also,
28 defendant has deposed plaintiff William J. Berry, Jr. Discovery that remains to be completed

1 includes the depositions of plaintiffs Cynthia Falls and Shane Kaufmann, company witnesses,
2 and any other third party witnesses, as well as expert witness disclosures and depositions.

3 8. During the past two weeks, counsel for the parties conferred on several occasions
4 regarding whether a follow-up mediation session would be a fruitful means of resolving the
5 litigation. On May 1, 2018, the parties agreed to move forward with a third mediation session
6 using an outside mediator. The parties are in the process of scheduling the mediation and agreed
7 that the mediation session will take place at JAMS before the Honorable Lawrence R. Leavitt
8 (Ret.) on either June 8th or 12th, 2018. The parties further agreed that two (2) weeks prior to the
9 scheduled mediation, plaintiffs will deliver to defendant a counterproposal regarding the
10 monetary settlement offer communicated by defendant to plaintiffs' counsel on April 26, 2018.

11 9. The parties also agreed to file the instant Stipulation and Order seeking to (i) stay
12 the current proceedings for thirty (30) days until after the mediation is concluded, and (ii) extend
13 the discovery deadlines set forth by the Amended Discovery Plan and Scheduling Order [ECF
14 No. 55] by thirty (30) days to account for the parties' second proposed stay of litigation. Based
15 on the foregoing, the parties stipulate and propose the following revised discovery deadlines:

16 (i) **Completion of Discovery and Discovery Cutoff Date.** The discovery
17 period will close on August 24, 2018, which is thirty (30) days from the current discovery cutoff
18 date of July 25, 2018.

19 (ii) **Expert Witness Disclosures.** The disclosure of any expert witnesses
20 shall be made on or before June 25, 2018, which is 60 days before the discovery deadline. The
21 disclosures of any rebuttal experts shall be due on or before July 25, 2018, which is 30 days
22 before the discovery deadline.

23 (iii) **Dispositive Motions.** Dispositive motions shall be filed no later than
24 September 24, 2018, which is the first business day that follows 30 days after the discovery
25 deadline.

26 (iv) **Joint Pretrial Order.** The Joint Pretrial Order shall be filed no later than
27 October 24, 2018, which is 30 days after the dispositive motions deadline. However, in the event
28

1 that dispositive motions are filed, the date for filing the Joint Pretrial Order shall be suspended
2 until 30 days after a decision on the dispositive motions or further order of the Court.

3 10. A brief 30-day stay in this matter will allow the parties another opportunity to
4 attempt to settle this litigation without incurring any more fees and costs than absolutely
5 necessary, thereby promoting the interests of judicial economy and efficiency. In addition, a
6 thirty (30) day extension of the discovery deadlines set forth by the Amended Discovery Plan
7 and Scheduling Order [ECF No. 55] will not unduly delay this matter in any way. No prejudice
8 would result to any party if this joint Stipulation and Order is granted.

9 11. This stipulation is made in good faith to allow the parties to continue to make
10 diligent and sincere efforts to resolve the matter without further involvement of the Court and is
11 not for the purpose of causing any undue delay.

12 IT IS SO STIPULATED.

13 Dated: May 4, 2018

Dated: May 4, 2018

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23 Desert Palace, Inc., d/b/a
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24
25 **IT IS SO ORDERED:**

26 
United States Magistrate Judge

27 Dated: May 8, 2018
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